

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION AT DAYTON

GREGORY WALKER JOHNSON,

Plaintiff,

Case No.: 3:13-CV-204

vs.

APPLE, INC.,

District Judge Timothy S. Black  
Magistrate Judge Michael J. Newman

Defendant.

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**REPORT & RECOMMENDATION<sup>1</sup> THAT: (1) PLAINTIFF'S FILING CAPTIONED "PLAINTIFF[']S] DISPOSITIVE MOTION" (DOC. 59) BE CONSTRUED AS A MOTION FOR SUMMARY JUDGMENT; AND (2) THE MOTION BE DENIED**

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*Pro se* Plaintiff's April 14, 2014 filing is now before the Court *sua sponte*. Doc. 59. The Court presumes that this is a notice to the Court considering the merits of his claims. Recognizing, however, that the document is captioned "Plaintiff[']s] Dispositive Motion," the Court liberally construes this document as Plaintiff's motion for summary judgment. The motion merits denial because Plaintiff has not demonstrated that there is no genuine dispute as to any material fact and that he is entitled to judgment as a matter of law, as required by Fed. R. Civ. P. 56(a). Accordingly, the Court **RECOMMENDS** that if the motion is so construed, it be **DENIED**. See *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242, 247-48 (1986).

April 17, 2014

s/ **Michael J. Newman**  
United States Magistrate Judge

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<sup>1</sup> Attached hereto is a NOTICE to the parties regarding objections to this Report and Recommendation.

### **NOTICE REGARDING OBJECTIONS**

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within **FOURTEEN** days after being served with this Report and Recommendation. Pursuant to Fed. R. Civ. P. 6(d), this period is extended to **SEVENTEEN** days because this Report and Recommendation is being served by one of the methods of service listed in Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F), and may be extended further by the Court on timely motion for an extension. Such objections shall specify the portions of the Report and Recommendation objected to, and shall be accompanied by a memorandum of law in support of the objections. If the Report and Recommendation is based in whole or in part upon matters occurring of record at an oral hearing, the objecting party shall promptly arrange for the transcription of the record, or such portions of it as all parties may agree upon or the Magistrate Judge deems sufficient, unless the assigned District Judge otherwise directs. A party may respond to another party's objections within **FOURTEEN** days after being served with a copy thereof. As is made clear above, this period is likewise extended to **SEVENTEEN** days if service of the objections is made pursuant to Fed. R. Civ. P. 5(b)(2)(C), (D), (E), or (F). Failure to make objections in accordance with this procedure may forfeit rights on appeal. *See Thomas v. Arn*, 474 U.S. 140, 153-55 (1985); *United States v. Walters*, 638 F.2d 947, 949-50 (6th Cir. 1981).